

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RICKY D. STARKS,
#733678

§

VS.

§

CIVIL ACTION NO. 6:07cv390

DIRECTOR, TDCJ-CID

§

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Judith K. Guthrie. The Magistrate Judge presented for consideration the Magistrate Judge's Report, containing proposed findings of fact and recommendations for disposition of this case.

Petitioner filed objections, and supplemental objections, to the Report. Petitioner contends that his petition is not successive because his previous federal petition was not decided on the merits. His previous federal petition, challenging the same conviction he now challenges, was dismissed as time-barred. That does not change the fact that the current petition is successive. This Court has made a *de novo* review of Petitioner's objections and determined that they lack merit. This Court finds that the Magistrate Judge's findings and conclusions are correct, and adopts them as the Court's findings and conclusions. The Court therefore

ORDERS that Respondent's motion to dismiss (dkt#23) is **GRANTED**;

ORDERS, ADJUDGES, and DECREES that this action is **DISMISSED** as successive;

ORDERS that Petitioner is **DENIED** a certificate of appealability; and

ORDERS that all motions not previously ruled on are denied.

So ORDERED and SIGNED this 19th day of June, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE